

UPDATED INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code (PRC) §40000 *et. seq.*, gives the Board authority to provide for the protection of public health, safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC §40502 requires the Board to adopt rules and regulations to implement the Act. Senate Bill (SB) 744 (McCorquodale, 1993) established the Waste Tire Hauler Registration Program and required the Board to adopt regulations for the Waste Tire Hauler Registration and Manifesting Programs. On May 9, 1996, the Board's Waste Tire Hauler Regulations became effective. With the passage of these and subsequent regulations the Board has been regulating the hauling of used and waste tires. The Waste Tire Hauler Program currently registers more than 870 waste tire haulers annually, with more than 6,900 vehicles statewide, and requires that used or waste tires be manifested from the generator to the end-use or disposal facility.

Senate Bill (SB) 876 (Escutia, Statutes of 2000, Chapter 838) expanded the Board's authority to oversee the management of used and waste tires and to better serve the regulated community and to protect public health and safety and the environment. The Board was also charged with implementing a new and improved "California Uniform Waste and Used Tire Manifest System."

This new manifesting system has been implemented through previous regulation packages approved by the Board, and impacts tire generators, haulers, and end-use facilities that generate, haul and/or accept used or waste tires. The intent of SB 876 was to "close the loop" on accountability by requiring copies of manifests from each party (generator, hauler, and end user) to be submitted to CIWMB for monitoring and tracking tire loads and movement within California. The current regulations for the "California Uniform Waste and Used Tire Manifest System" are found in Title 14, California Code of Regulations, Chapter 6, Article 8.5.

From the year 1995 to 2003 (prior to the changes implemented by SB 876), the Retread Industry was allowed to prepare an invoice for their customers and attach a copy of that invoice to a single manifest form for the day's route. With the implementation of the California Uniform Waste and Used Tire Manifest System in July 2003, the Retread Industry has been required to manifest each transaction of retreadable casings along with a required trip log. Retreaders have had to abide by the waste tire hauler requirements, because the Public Resources Code includes casings that may be reused within the definition of waste tires (PRC Sections 42805.5 and 42807).

At the April 2005 Board Meeting, the Board approved emergency regulations that revise the current Waste and Used Tire Hauler Registration and Manifesting regulations by implementing a new Comprehensive Trip Log (CTL) form while phasing out the current Waste Tire Manifest Form and Tire Trip Log. The emergency CTL Regulations became effective on June 13, 2005, when the Office of Administrative Law filed the regulations with the Secretary of State's Office.

The Board believes that because tire casings are owned by their clients and do not become

the property of the retreaders, and because they are being transported by the retreader only for inspection, re-treading, re-casing, or re-capping; and not disposal, that the retreader should not be required to manifest the pick-up and delivery of each load of casings.

Both the Retreader Trip Log and the CTL simplify the manifesting process. However, the CTL was not available a year ago when the Retread Industry approached the Board seeking relief from the California Uniform Waste and Uniform Manifest System. The Board has, therefore, added a sunset provision to the Retreader Trip Log provisions.

The following is a list summarizing the more significant proposed changes to the existing regulations to accommodate the retreaders:

1. A registered Waste Tire Hauler who is a retreader shall complete a Retreader Self-Certification Form in order to be a CIWMB certified retreader.
2. The Board shall issue decals and a retreader registration card to the self-certified retreader.
3. Regulations have been added entitled “Retreader Self-Certification Denial, Suspension, and Revocation” and “Request for Hearing of Denial, Suspension, or Revocation of Retreader Self-Certification” which are similar to the requirements for Registered Waste Tire Haulers.
4. A customer invoice may be substituted for a Manifest Form.
5. For each shipment of casings, the self-certified retreader should have in his/her possession a Retreader Trip Log and customer invoices/Manifest Forms, in lieu of the Manifest Form and Tire Trip Log required for the Registered Waste Tire Hauler.
6. A sunset provision will eliminate the Retreader Trip Log when the non-emergency CTL provisions become effective.

The Retreader will only be submitting to the CIWMB the Retreader Trip Log. The Retreader will be required to keep copies of the customer invoices for a period of three years. If the CIWMB wants to check the invoices against the Retreader Trip Log, the CIWMB will have to audit the Retreader.

~~Staff estimates that up to \$32,000 will be needed to accommodate changes in the existing forms and computer programs. A portion of the \$32,000 has already been spent in order to implement the current emergency regulations for retreaders.~~ The costs associated with updating computer programs and printing forms have already been covered under the implementation of the emergency regulations. There should be enough existing forms to last until the non-emergency CTL regulations become effective.

Staff has also reviewed, interpreted, and updated inaccuracies in the existing regulations found in Title 14, California Code of Regulations, Chapter 6, Article 8.5.

POLICY STATEMENT OVERVIEW

Over the past seven years the California Integrated Waste Management Board has been regulating the hauling of used and waste tires in California. The Waste Tire Hauler

Program currently registers more than 870 waste tire haulers annually, with more than 6,900 vehicles statewide, and requires that every used or waste tire be manifested from the generator to the end-use or disposal facility. Existing waste tire hauler regulations set forth procedures for the waste tire haulers registration process and current manifest requirements.

The proposed regulations will no longer require a self-certified retreader to manifest the pick-up and delivery of each load of casings. The retreader will only be submitting to the CIWMB the Retreader Trip Log. The retreader will be required to keep copies of the customer invoices for a period of three years. A sunset provision will eliminate the Retreader Trip Log and require retreaders along with all other waste tire haulers to use the new CTL form when the non-emergency CTL provisions become effective. The regulations make changes in the existing regulations to implement, interpret and make specific the provisions of SB 876 (Escutia, 2000), as well as correct errors, add clarifying language to make the regulations more functional, and delete unnecessary language.

PLAIN ENGLISH REQUIREMENTS

Board staff prepared the proposed final regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Sections 11342.580 and 11346.2(a)(1). The proposed final regulations are considered non-technical and are written to be easily understood by those parties that will use them.

AUTHORITY AND REFERENCES

PRC §§ 40502, 42966, and 43020 provide authority for these regulations. The purpose of the proposed actions is to implement, interpret, and make specific numerous statutes and regulations related to the transportation of used and waste tires. The following is a list of references cited in these proposed regulation changes: PRC §§, 42950, 42951, 42952, 42953, 42954, 42955, 42956, 42958, 42960, 42961, 42961.5, and 42962.

FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements.

LOCAL MANDATE AND FISCAL DETERMINATIONS

Board staff has determined that the proposed regulations do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code §§17500 through 17630; 4) other non-discretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

CIWMB staff made an initial determination that the proposed regulations will not have a significant effect on housing costs.

EFFECT ON BUSINESS AND SMALL BUSINESSES/ SMALL BUSINESS DETERMINATION

Board staff made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulations may apply to business and small businesses, but as stated above, they will not have a significant adverse economic impact on business and small businesses. Retreaders will complete a Retreader Trip Log for each shipment of tires in lieu of the current Waste Tire Trip Log and Manifest Form.

EFFECT ON COMPETITION WITH OUT-OF-STATE BUSINESS

Board staff has determined that the proposed regulations will not have an adverse economic impact upon the ability of California businesses to compete with out-of-state business.

EFFECT ON CREATION OR ELIMINATION OF JOBS, EXISTING OR NEW BUSINESS IN THE STATE OF CALIFORNIA

Board staff has determined that the proposed regulatory action will not affect: 1) the creation or elimination of jobs within the state of California; 2) the creation of new businesses or the elimination of existing businesses within California; or 3) the expansion of businesses currently doing business with the state.

COST IMPACT ON PRIVATE PERSONS OR ENTERPRISES

Board staff has determined that the adoption of the proposed regulations will not have a cost impact on private persons or enterprises. Cost impacts for the program in general have already been identified in a previous rulemaking. Retreaders and their customers are essentially the only members of the regulated community that are affected by the proposed regulations. There will be no increase in the universe of individuals and businesses presently regulated. There is no cost associated with retreaders completing the "Retreader Self-Certification" Form or with the retreaders and their customers using the "CA Retreader Trip Log." Therefore, the proposed regulations impose no costs on either retreaders or their customers and should not have a significant adverse economic impact on individuals and businesses that comply with the statute and regulations governing waste and used tire hauling.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Tom Micka, Special Waste Division
California Integrated Waste Management Board
P.O. Box 4025
Sacramento, California 95812-4025
(916) 341-6420 phone, (916) 319-7491 facsimile
e-mail: tmicka@ciwmb.ca.gov

Back-up contact person to whom inquiries concerning the proposed administrative action may be directed:

Georgianne Turner, Special Waste Division
California Integrated Waste Management Board
P.O. Box 4025
Sacramento, CA 95812-4025
(916) 341-6429 phone, (916) 319-7165 facsimile
e-mail: gturner@ciwmb.ca.gov

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board will have the entire rulemaking file, and all information that provides the basis for the proposed regulations, available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. The Final Statement of Reasons will also be made available once it is prepared. Copies may be obtained by contacting Tom Micka at the address or phone number listed above. For more timely access to the proposed text of the regulations, and in the interest of waste prevention, interested parties are encouraged to access the Board's Internet homepage at www.ciwmb.ca.gov/rulemaking

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text -- with changes clearly indicated -- available to the public for at least 15 days before the Board adopts the regulations as revised. Requests for the modified text should be made to the contact person named above. The Board will mail any modified text to all persons who testify at the public hearing; all persons who submit written comments at the public hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.